

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)



Applicant's or agent's file reference B02292PCMGM	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP 03/05223	International filing date (day/month/year) 19.05.2003	Priority date (day/month/year) 18.07.2002
International Patent Classification (IPC) or both national classification and IPC A43B5/16		
Applicant M.G.M. SPA et al.		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 5 sheets, including this cover sheet.

☒ This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of 5 sheets.

- This report contains indications relating to the following items:
 - I ☒ Basis of the opinion
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 17.12.2003	Date of completion of this report 21.10.2004
Name and mailing address of the International preliminary examining authority:  European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465	Authorized Officer Vesin, S Telephone No. +49 89 2399-7489 

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/05223**

I. Basis of the report

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17):*

Description, Pages

1, 3-10 as originally filed
2, 2a received on 21.09.2004 with letter of 15.09.2004

Claims, Numbers

15 as originally filed
1-14 received on 21.09.2004 with letter of 15.09.2004

Drawings, Sheets

1/9-9/9 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:
☐ the claims, Nos.:
☐ the drawings, sheets:

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT**

International application No. **PCT/EP 03/05223**

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)

6. Additional observations, if necessary:

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	1-14
	No: Claims	
Inventive step (IS)	Yes: Claims	1-14
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-14
	No: Claims	

2. Citations and explanations

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Independent claim 1

- 1.1 The document **EP-A-0 841 016 (D5)** which has been identified in the description as being the closest prior art, corresponds to the preamble of claim 1 (see figure 1).
- 1.2 The subject-matter of independent claim 1 is without doubt novel in the sense of Article 33(2) PCT, since its features as a whole are not known from the documents found in the search report.
- 1.3 The subject-matter of claim 1 therefore differs from this known computer furniture system in that:
- i) the ends of said plate (7,107) are open and free of vertical walls, and
 - ii) said ends having a transverse extension corresponding approximately to the transverse extension (A) of said frame (2,102)
- 1.4 The problem to be solved by the present invention may therefore be regarded as providing a footwear for a skate with a standardised modular rigid portion, which can be used for different models and/or sizes.
- 1.5 This problem is solved by the present footwear as defined by the features combination of claim 1.
- 1.6 Although document **US-A-5 778 563** (cited in the search report) shows a plate 12 (see figure 1) which ends are open and free of vertical walls, i.e. without toe box or ankle cuff, its transverse extension depends on the size of the foot and there is no indication that this construction would fit all foot lengths.
None of the remaining available prior art discloses or suggests the distinguishing features of claim 1.

Remark: The subject-matter of independent claim 1 not only defines the subject-matter of the designated structure of footwear but also specifies its relationship when used with a second entity, in this case to an element of the means for resting, gliding or rolling on the ground: the frame. The frame is therefore not

**INTERNATIONAL PRELIMINARY
EXAMINATION REPORT - SEPARATE SHEET**

International application No. PCT/EP 03/05223

defined as a feature of the claimed structure. Thus, the requirements of Article 6 PCT are not fulfilled for lack of clarity due to claiming in terms of the intended use (cf. PCT Guidelines, III,4.8a).

- 1.7 The subject-matter of independent claim 1 involves an inventive step in the sense of Article 33(3) PCT.

2. Dependent claims 2-14

The same conclusion must also apply to dependent claims 2-14, which constitute various embodiments of the claims to which they refer.

3. Industrial applicability

- 3.1 The subject-matter of claim 1-14 can be manufactured as well as used in the industry.
- 3.2 The industrial applicability of the subject-matter of claims 1-14 in the sense of Article 33(4) PCT is obviously given.